

SENATE BILL 864

C7

2lr1272
CF 2lr3026

By: **Senator DeGrange**

Introduced and read first time: February 3, 2012

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Gaming – Instant Bingo – Electronic Machines**

3 FOR the purpose of authorizing the operation of certain electronic instant bingo games
4 using electronic machines; providing that the electronic instant bingo machines
5 must have been in operation during a certain period or that the machines be in
6 operation under a commercial bingo license on a certain date; prohibiting the
7 operation of more than a certain number of electronic instant bingo machines
8 than were in operation on a certain date; requiring the conduct of the gaming
9 and the operation of certain electronic instant bingo machines to be consistent
10 with certain provisions of law; clarifying that certain slot machines located in
11 certain counties are not subject to certain provisions of law; clarifying that a
12 certain handheld device is not considered a slot machine; requiring the Office of
13 the Attorney General, the Department of State Police, and local law
14 enforcement units to construe certain statutory provisions in a certain manner;
15 making a certain decision by the State Lottery Commission a final
16 determination as to whether a certain gaming device is legal and being operated
17 in a lawful manner; authorizing the State Lottery Commission to refer certain
18 matters for enforcement to the Department of State Police under certain
19 circumstances; requiring the Commission to certify and regulate the operation,
20 ownership, and manufacture of certain gaming devices; stating that a gaming
21 device that is not licensed or otherwise operated in compliance with certain
22 provisions of law as of a certain date may not legally operate in the State;
23 requiring the Commission to adopt certain regulations related to the approval
24 and licensing of certain gaming devices; authorizing the Commission to make
25 certain determinations and charge certain fees; imposing a certain State
26 admissions and amusement tax rate on electronic bingo in Calvert County;
27 altering the revenue attributable from a certain tax rate distributed to a certain
28 special fund; providing for the distribution of certain revenue and proceeds to
29 Program Open Space, the Boys and Girls Club of the Town of North Beach, and
30 certain municipal corporations in certain years; requiring the Commission to
31 certify the compliance with certain laws before certain electronic bingo

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 machines may be authorized for use; authorizing a certain qualified
2 organization to repair and replace electronic bingo machines under certain
3 circumstances; requiring certain regulations to be at least as stringent as
4 certain requirements; authorizing certain regulations to include certain
5 provisions; and generally relating to the operation and regulation of instant
6 bingo machines.

7 BY repealing and reenacting, with amendments,
8 Article – Criminal Law
9 Section 12–113 and 12–301(3)
10 Annotated Code of Maryland
11 (2002 Volume and 2011 Supplement)

12 BY adding to
13 Article – Criminal Law
14 Section 12–301.1 and 12–308
15 Annotated Code of Maryland
16 (2002 Volume and 2011 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Tax – General
19 Section 2–202 and 4–105(a–1)
20 Annotated Code of Maryland
21 (2010 Replacement Volume and 2011 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article – Criminal Law**

25 12–113.

26 **(A) [A] THE OFFICE OF THE ATTORNEY GENERAL, THE DEPARTMENT**
27 **OF STATE POLICE, LOCAL LAW ENFORCEMENT UNITS, AND THE** court shall
28 construe liberally this [title] **ARTICLE** relating to gambling and betting to prevent the
29 activities prohibited.

30 **(B) A DECISION BY THE STATE LOTTERY COMMISSION SHALL BE THE**
31 **FINAL DETERMINATION AS TO WHETHER A GAMING DEVICE BEING OPERATED IN**
32 **THE STATE IS:**

33 **(1) A LEGAL GAMING DEVICE OR DEVICE CONSISTENT WITH THE**
34 **PROVISIONS OF THIS ARTICLE; AND**

35 **(2) BEING OPERATED IN A LAWFUL MANNER UNDER THIS**
36 **ARTICLE.**

1 **(C) IF A LOCAL LAW ENFORCEMENT UNIT FAILS TO PROMPTLY**
 2 **ENFORCE A FINAL DETERMINATION MADE UNDER SUBSECTION (B) OF THIS**
 3 **SECTION, THE STATE LOTTERY COMMISSION SHALL REFER THE MATTER TO**
 4 **THE DEPARTMENT OF STATE POLICE FOR ENFORCEMENT OF THE LAW.**

5 12-301.

6 In this subtitle:

7 (3) “slot machine” does not include a machine, apparatus, or device
 8 that:

9 (i) awards the user only free additional games or plays;

10 (ii) awards the user only noncash merchandise or noncash
 11 prizes of minimal value;

12 (iii) dispenses paper pull tab tip jar tickets or paper pull tab
 13 instant bingo tickets that must be opened manually by the user provided that the
 14 machine, apparatus, or device does not:

15 1. read the tickets electronically;

16 2. alert the user to a winning or losing ticket; or

17 3. tabulate a player’s winnings and losses;

18 (iv) 1. **IS A HANDHELD DEVICE THAT** displays **ONLY**
 19 facsimiles of bingo cards that [users] **AN INDIVIDUAL USES TO** mark and monitor
 20 [according to] **CONTEMPORANEOUSLY TO A LIVE CALL OF BINGO** numbers called
 21 on the premises by an individual where the user is operating the machine; [and]

22 2. does not permit a user to play more than 54 bingo
 23 cards at the same time;

24 **3. DOES NOT RANDOMLY GENERATE ANY NUMBERS;**
 25 **AND**

26 **4. IS NOT PART OF AN INTEGRATED SYSTEM;**

27 (v) is used by the State Lottery Commission under Title 9 of the
 28 State Government Article; or

1 (vi) if legislation takes effect authorizing the operation of video
2 lottery terminals, is a video lottery terminal as defined in and licensed under that
3 legislation.

4 **12-301.1.**

5 (A) IN THIS SUBTITLE, "COMMISSION" MEANS THE STATE LOTTERY
6 COMMISSION.

7 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND
8 CONSISTENT WITH THE PROVISIONS OF THIS TITLE AND TITLE 13 OF THIS
9 ARTICLE, THE COMMISSION SHALL CERTIFY AND REGULATE THE OPERATION,
10 OWNERSHIP, AND MANUFACTURE OF A GAMING DEVICE AUTHORIZED UNDER
11 THIS TITLE.

12 (2) THIS SECTION MAY NOT APPLY TO THE OWNERSHIP OR
13 OPERATION OF SLOT MACHINES THAT ARE SUBJECT TO REGULATION BY THE
14 COMPTROLLER UNDER § 12-304 OF THIS TITLE.

15 (C) THE COMMISSION SHALL ADOPT REGULATIONS THAT:

16 (1) DEFINE LAWFUL ELECTRONIC AND MECHANICAL EQUIPMENT
17 USED IN CONNECTION WITH GAMING DEVICES THAT ARE CONSISTENT WITH
18 THIS TITLE;

19 (2) APPROVE AND LICENSE GAMING DEVICES AUTHORIZED
20 UNDER STATE LAW;

21 (3) APPROVE AND LICENSE OWNERS, OPERATORS, AND
22 MANUFACTURERS OF GAMING DEVICES AUTHORIZED UNDER STATE LAW;

23 (4) ESTABLISH PROCEDURES FOR THE LICENSE APPLICATION
24 AND RENEWAL PROCESSES REQUIRED UNDER THIS SECTION; AND

25 (5) ESTABLISH LICENSE FEES THAT ARE SUFFICIENT TO COVER
26 THE DIRECT AND INDIRECT COSTS OF LICENSURE REQUIRED UNDER THIS
27 SECTION.

28 (D) THE COMMISSION MAY DETERMINE:

29 (1) THAT A COUNTY'S LICENSING AND REGULATORY PROCESS
30 FOR GAMING DEVICES IS EQUIVALENT TO THE STATE LICENSING AND
31 REGULATORY PROCESS REQUIRED UNDER THIS SECTION; AND

1 (ii) the revenue attributable to a tax rate [in excess of 20%] OF
2 5% to the Special Fund for Preservation of Cultural Arts in Maryland, as provided in §
3 4–801 of the Economic Development Article; and

4 (2) the remaining admissions and amusement tax revenue:

5 (i) to the Maryland Stadium Authority, county, or municipal
6 corporation that is the source of the revenue; or

7 (ii) if the Maryland Stadium Authority and also a county or
8 municipal corporation tax a reduced charge or free admission:

9 1. 80% of that revenue to the Authority; and

10 2. 20% to the county or municipal corporation.

11 (B) FROM THE REVENUE FROM THE STATE ADMISSIONS AND
12 AMUSEMENT TAX ON ELECTRONIC BINGO AND ELECTRONIC TIP JARS IN
13 CALVERT COUNTY UNDER § 4–102(D) OF THIS ARTICLE, THE COMPTROLLER
14 SHALL DISTRIBUTE:

15 (1) FOR FISCAL YEAR 2013, THE REVENUE ATTRIBUTABLE TO A
16 TAX RATE OF 8%:

17 (I) \$100,000 TO THE BOYS AND GIRLS CLUB OF THE TOWN
18 OF NORTH BEACH; AND

19 (II) THE REMAINDER TO PROGRAM OPEN SPACE UNDER
20 TITLE 5, SUBTITLE 9 OF THE NATURAL RESOURCES ARTICLE THAT MAY ONLY
21 BE USED FOR A LOCAL OPEN SPACE PROJECT APPROVED BY THE SECRETARY OF
22 THE DEPARTMENT OF NATURAL RESOURCES THAT INCREASES YOUTH
23 RECREATIONAL OPPORTUNITIES IN THE COUNTY; AND

24 (2) FOR FISCAL YEAR 2014 AND EACH FISCAL YEAR THEREAFTER:

25 (I) FROM THE REVENUE ATTRIBUTABLE TO A TAX RATE OF
26 3%:

27 1. \$100,000 TO THE BOYS AND GIRLS CLUB OF THE
28 TOWN OF NORTH BEACH; AND

29 2. THE REMAINDER TO THE TOWN OF NORTH
30 BEACH; AND

1 **(II) THE REVENUE ATTRIBUTABLE TO A TAX RATE OF 5% TO**
2 **THE TOWN OF CHESAPEAKE BEACH.**

3 **[(b)] (C)** The revenue to be distributed in accordance with subsection (a)(1)
4 of this section:

5 (1) for fiscal year 2010 only, shall be distributed to the General Fund
6 of the State;

7 (2) for fiscal year 2011 only, shall be distributed as follows:

8 (i) \$500,000 to the Special Fund for Preservation of Cultural
9 Arts in Maryland, as provided in § 4-801 of the Economic Development Article;

10 (ii) \$500,000 to a special fund, to be used only as provided in
11 subsection (c) of this section; and

12 (iii) the balance to the General Fund of the State; and

13 (3) for fiscal year 2012 only, shall be distributed as follows:

14 (i) \$500,000 to a special fund, to be used only as provided in
15 subsection (c) of this section; and

16 (ii) the balance to the General Fund of the State.

17 **[(c)] (D)** (1) (i) For fiscal year 2011, the Comptroller shall pay from
18 the special fund established under subsection (b)(2)(ii) of this section a grant to the
19 local jurisdictions where the electronic bingo machines or electronic tip jar machines
20 that are the source of the revenue are located, to be used by the local jurisdictions only
21 for one-time capital expenditures.

22 (ii) A grant under this paragraph shall be paid to a municipal
23 corporation if the machines are located in a municipal corporation or to a county if the
24 machines are not located in a municipal corporation.

25 (iii) The grants under this paragraph shall be paid to each local
26 jurisdiction in proportion to the amount of tax revenue derived from machines in each
27 jurisdiction.

28 (2) For fiscal year 2012, the special fund established under subsection
29 (b)(3)(i) of this section may be used only as follows:

30 (i) \$150,000 as an appropriation to the State Archives, to be
31 used only for the operating costs associated with the development and implementation
32 of the State House Master Plan as approved by the State House Trust;

1 (ii) \$50,000 as a grant to be paid by the Comptroller to the
2 Maryland Humanities Council; and

3 (iii) impact grants to be paid by the Comptroller in the local
4 jurisdictions where the electronic bingo machines or electronic tip jar machines are
5 located, as follows:

6 1. \$150,000 in Anne Arundel County to the Anne
7 Arundel County Volunteer Firefighters Association for capital expenditures and
8 replacement of equipment; and

9 2. \$150,000 in Calvert County as follows:

10 A. \$125,000 to be divided equally between the Town of
11 Chesapeake Beach and the Town of North Beach, to be used only for one-time capital
12 expenditures; and

13 B. \$25,000 to the Beach Trolley Association of
14 Chesapeake Beach and North Beach.

15 4-105.

16 (a-1) (1) Except as provided in [paragraph] PARAGRAPHS (2) AND (3) of
17 this subsection, the rate of the State admissions and amusement tax imposed on
18 electronic bingo or electronic tip jars under § 4-102(d) of this subtitle is 30% of the net
19 proceeds subject to the tax.

20 **(2) THE RATE OF THE STATE ADMISSIONS AND AMUSEMENT TAX**
21 **IMPOSED ON ELECTRONIC BINGO OR ELECTRONIC TIP JARS IN CALVERT**
22 **COUNTY UNDER § 4-102(D) OF THIS SUBTITLE IS 33% OF THE NET PROCEEDS**
23 **SUBJECT TO THE TAX.**

24 **[(2)] (3)** If net proceeds subject to the State admissions and
25 amusement tax imposed on electronic bingo or electronic tip jars under § 4-102(d) of
26 this subtitle are also subject to an admissions and amusement tax imposed by a county
27 or a municipal corporation under this subtitle:

28 (i) the rate of the State tax may not exceed a rate that, when
29 combined with the rate of any county or municipal corporation tax, will exceed 35% of
30 the net proceeds; and

31 (ii) the rate of any county or municipal corporation admissions
32 and amusement tax that is applicable to net proceeds derived from electronic bingo or
33 electronic tip jars may not exceed the rate of the admissions and amusement tax
34 imposed by the county or municipal corporation as of January 1, 2009.

1 SECTION 2. AND BE IT FURTHER ENACTED, That, prior to an electronic
2 bingo machine being authorized for use after July 1, 2012, the State Lottery
3 Commission shall certify that the electronic bingo machine complies with all
4 applicable State laws as of the effective date of this Act.

5 SECTION 3. AND BE IT FURTHER ENACTED, That, a licensee or
6 organization that is authorized under State law to own or operate electronic bingo
7 machines for use after July 1, 2012, may repair and replace the authorized electronic
8 bingo machines provided that the machines operate in the same manner as those in
9 operation by the same organization as of February 28, 2008, and that the organization
10 does not operate more than the number of electronic bingo machines in operation as of
11 February 28, 2008.

12 SECTION 4. AND BE IT FURTHER ENACTED, That, regulations adopted by
13 the State Lottery Commission as required under Section 1 of this Act pertaining to the
14 operation of electronic bingo machines shall be at least as stringent as the
15 requirements set forth in Article 11, Title 2, Subtitle 2 of the Anne Arundel County
16 Code as of June 1, 2012.

17 SECTION 5. AND BE IT FURTHER ENACTED, That, regulations adopted by
18 the State Lottery Commission under Section 1 of this Act may include provisions that
19 regulate the repair and replacement of electronic bingo machines authorized under
20 Section 3 of this Act.

21 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 July 1, 2012.